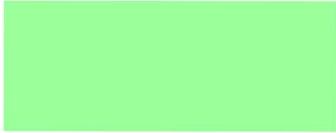


(b)(6)



U.S. Citizenship
and Immigration
Services



DATE:

JUL 08 2013

OFFICE: CALIFORNIA SERVICE CENTER

FILE:

IN RE:

Applicant:

Beneficiary:

APPLICATION:

Application for Extension of Stay as an E-2 Nonimmigrant Treaty Investor
Pursuant to 8 C.F.R. § 214.2(e)(20)

IN BEHALF OF APPLICANT:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg

Acting Chief, Administrative Appeals Office

DISCUSSION: The applicant filed an application for an extension of stay as an E-2 Treaty Investor, pursuant to 8 C.F.R. § 214.2(e)(20). In accordance with the regulations, the application for extension of stay was filed on Form I-129. *See* 8 C.F.R. § 214.1(c)(1). The application was denied by the Director, California Service Center. The applicant then filed a motion to reconsider on January 25, 2013. The director dismissed the motion. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will reject the appeal.

Pursuant to the regulations at 8 C.F.R. § 214.1(c)(5) there is no appeal from the denial of an application for an extension of status of an E-1 or E-2 treaty trader or treaty investor. The AAO notes that there is no petition requirement for E-1 Treaty Traders and there is no petition determination that may be appealed. When it published the Final Rule governing the nonimmigrant classification, the Immigration and Naturalization Service (former INS, now USCIS) noted:

[U]nder section 103 of the Act, the service has exclusive jurisdiction to adjudicate applications for admission to this country, as well as applications for change of nonimmigrant status to, or extensions of stay in, E nonimmigrant classification. In this regard, it should be noted that, unlike other employment-driven classifications, E nonimmigrant visa classification is not conferred by means of a petition, but instead by an application.

62 Fed. Reg. 48138 (Sept. 12, 1997).

Additionally, 8 C.F.R. § 103.5(a)(6) states that the AAO may only consider an appeal from a motion if the original decision was appealable before the AAO. Such is not the case in the matter at hand.

Therefore, although an appeal was subsequently filed, the appeal must be rejected pursuant to the regulation at 8 C.F.R. § 214.1(c)(5), which states:

Decision in Form I-129 or I-539 extension proceedings. Where an applicant or petitioner demonstrates eligibility for a requested extension, it may be granted at the discretion of the Service. *There is no appeal from the denial of an application for extension of stay filed on Form I-129 or I-539.*

(Emphasis added.)

Since this application is for an extension of stay, its denial cannot be appealed and the appeal must be rejected.

ORDER: The appeal is rejected.